

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

In the Matter of	)	
	)	
Amendment of 73.202(b)	)	MM Docket No. 97-156
Table of Allotments	)	RM-9110
FM Broadcast Stations	)	
(Abbeville and Greenwood, SC)	)	

To: Sharon P. McDonald  
Allocations Branch

**REPLY COMMENT OF PETITIONER**

Petitioner Sutton Radiocasting Corp. ("Sutton") hereby submits this Reply Comment in response to the Opposition of Shelley Reid, licensee of WZLA-FM, Abbeville, SC ("Reid"), submitted September 2, 1997.

1. Reid's Opposition is bottomed on the broad assertion that the grant of the Petition, and the resulting upgrade and relocation of station WCRS-FM, would violate Section 307(b) of the Communications Act. That assertion is palpably without merit.

2. Reid's putative Section 307(b) assertion is doomed by errors of both fact and law. Initially, it is falsely premised on a belief that Section 307(b) requires a numerical balancing of local transmission facilities based simply on the relative populations of various communities. The FCC long has rejected such a simplistic approach. Its allocation priorities long have favored (1) first full-time aural service, (2) second full-time aural service, (3) first local service and (4) other public interest factors. See Revision of FM Assignment Policies and Procedures,

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90 FCC 2d 88 (1982). As discussed below, numerous "public interest" factors favor a grant of the Petition in this case.

3. Reid is factually mistaken concerning the "public interest" benefits that would result from the proposed rearrangement of allotments. First, Reid ignores the fact that the practical effect of a grant of the Petition will be an expansion of WCRS-FM's service area, one that will include both Greenwood and Abbeville. <sup>1/</sup> See Change of Community, 5 FCC Rcd 7094, 7097 (1990). Second, Reid also ignores the fact that the practical effect of a grant of the Petition will be an expansion of WCRS-FM's local programming to include coverage of important local needs and issues concerning both Abbeville and Greenwood. Indeed, as explained by WCRS-FM's owner, a grant of the Petition will not result in the loss of a single program or public service effort directed toward Greenwood. See Appendix A. Thus, Reid is flatly wrong in asserting that a grant of the Petition would "leave only one FM broadcast station in Greenwood with public service and public affairs programming requirements toward the citizens of the city of Greenwood." See Opp. at 2. <sup>2/</sup>

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<sup>1/</sup> From the reference site, the WCRS-FM "60 dBu contour" will extend to Greenwood. See Petitioner's Comment at Exhibit E-2. Moreover, Petitioner has located and optioned a site that will place a "70 dBu city-grade signal" over both Abbeville and Greenwood.

<sup>2/</sup> Of course, Reid is also wrong because, even after WCRS-FM is relocated to Abbeville, Greenwood will continue to be served by two, fully operational AM stations (WCRS-AM and WLMA-AM).

4. Third, Reid is also mistaken that the alleged "proportionality precepts" of Section 307(b) require that the Petition be denied simply because Greenwood, WCRS-FM's present community of license, is currently more populous than Abbeville. See Opp. at 2-3. There are no such "proportionality precepts" underlying Section 307(b); allocations are not made by quotas or in proportion to population. In any event, Reid's assertion (Opp. at note 1) that a grant of the Petition would establish a "1:1 ratio" is factually faulty. Because Abbeville station WABV (AM) is now off the air, has been largely "silent" since 1991 and has "dim" prospects of ever returning to the air as a full-time local service,<sup>3/</sup> a grant of the Petition would not only leave Greenwood with three (3) local transmission services but also would leave Greenwood with more fully operational services than Abbeville.<sup>4/</sup>

5. Fourth, Reid ignores the fact that a grant of the Petition would also serve the public interest by providing Abbeville (and its county of nearly 24,000 persons) with its first competing FM service. See Revision of FM Assignment Policies and Procedures, supra.<sup>5/</sup> This public interest factor takes on

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<sup>3/</sup> See Appendix B (Statement of former WABV manager).

<sup>4/</sup> The "silent" status of WABV accounts for the statement by the Petitioner's engineering consultant that a grant of the Petition would provide Abbeville with its "second local aural broadcast service." See Petitioner's Comment, supra, at Exhibit E-1, at 3.

<sup>5/</sup> Petitioner's Comment, supra at paragraphs 3-7, detailed the numerous specific WCRS-FM programming benefits that would result from FM competition in Abbeville.

heightened significance in light of the "silent" status of beleaguered Abbeville station WABV-AM. Moreover, the instant Petition presents the only opportunity for any competing commercial FM service to be allocated to Abbeville. <sup>6/</sup>

6. Fifth, Reid also ignores the fact that a grant of the Petition would serve the FCC's important public interest goal of maximizing WCRS-FM's service to the public. Indeed, a grant of the Petition would nearly double WCRS-FM's existing 60 dBu service area and would significantly increase its service area population. This maximization of the WCRS-FM facility would occur without any significant loss to existing listeners. <sup>7/</sup>

See Change of Community, supra, 5 FCC Rcd at 7097. Rather, the upgraded WCRS-FM facility would result in a fourth aural reception service to 1,338 persons, a fifth service to 2,433 persons, a sixth service to 5,502 persons and a seventh service to 5,987 persons. <sup>8/</sup>

7. Ultimately, Reid's opposition to the Petition is merely an attempt by one licensee to preserve its monopolistic position and to thwart a first local FM competition. The public interest favors competition. The grant of the Petition in this case would result in robust competition from one of South Carolina's most

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<sup>6/</sup> See Petitioner's Comment, supra, at Exhibit E-1, at 3.

<sup>7/</sup> The hypothetical "loss" area would be left with no fewer than three aural reception services and 93.7 % of the loss area would still be served by five or more fulltime stations. See Petitioner's Comment, supra, Exhibit E-1 at 3.

<sup>8/</sup> Id.

honored stations <sup>2/</sup> and would advance numerous other public interest goals.

**CONCLUSION**

The Petition should be granted, the reallotment should be made, and WCRS-FM should be authorized to construct an upgraded facility on Channel 244C3 at Abbeville, SC.

Respectfully submitted,



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Counsel for Petitioner,  
Sutton Radiocasting Corp.

September 17, 1997

cc: Robert A. Depont, Esq.

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<sup>2/</sup> See Petitioner's Comment, supra, at note 3.

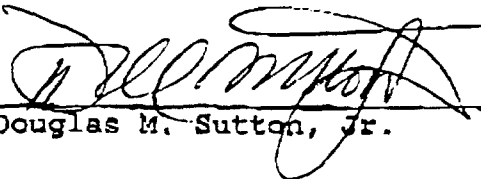
Appendix A

SWORN STATEMENT

Douglas M. Sutton, Jr. being duly sworn does state:

1. My name is Douglas M. Sutton, Jr. and I am the owner of Sutton Radiocasting Corp., licensee of WCRS-FM.

2. In the Comment, filed September 2, 1997, I noted a number of public interest benefits that would result from a grant of the Petition and the proposed upgrade and reallocation of WCRS-FM from Greenwood to Abbeville, SC. Even while WCRS-FM proposes to institute those programming enhancements upon construction of the upgraded facility at Abbeville, the proposed reallocation of WCRS-FM from Greenwood to Abbeville would not result in the loss of a single existing WCRS-FM program or public service effort directed toward Greenwood. A grant of the Petition is thus not a "loss" for Greenwood in any practical sense but, rather, the expansion of WCRS-FM service to benefit Abbeville, WCRS-FM's new community of license. Executed under penalty of perjury on this 16th day of September 1997.

  
Douglas M. Sutton, Jr.

Appendix B

Statement

September 11, 1997

To Whom It May Concern:

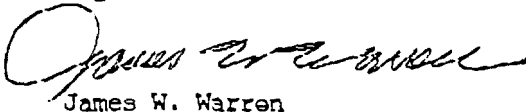
I was asked by Art Sutton to determine, if possible, what dates Radio Station WABV in Abbeville, South Carolina was in operation over the past twelve years. The reason Mr. Sutton approached me was that I had managed WABV for 9 years (1975 to 1984), and was familiar with the station and the community.

In talking with several merchants in Abbeville and one former station manager, it appears that WABV has not been on the air more than 15 percent of the time since 1991. From 1984 to 1991, there were at least two attempts to operate the station. One time by a Mr. Lash and one time by a Mr. Pat Gwyn. My understanding is that the license was held from sometime in the early 1990s until recently by Minority Broadcast Group of Gainesville, Florida. They made several short-lived attempts to operate the station, without continued success. I was told that the station had been off the air about two years prior to a new owner taking over in June of 1997.

To the best of my knowledge, WABV still has the original transmitter that was installed in the 1950s and is in need of a new radial system. The station does not appear to be capable of broadcasting a very good signal.

I believe the future of WABV is rather dim.

Signed,

A handwritten signature in dark ink, appearing to read "James W. Warren", is written over a circular stamp or mark.

James W. Warren